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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,581	04/20/2001	Fred Allegrezza	BPCUR0001FA (C-1)	1423
27939	7590	11/12/2009	EXAMINER	
PHILIP H. BURRUS, IV 460 Grant Street Atlanta, GA 30312			PARRY, CHRISTOPHER L	
ART UNIT	PAPER NUMBER			
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FRED ALLEGREZZA

Application No. 09/ 839,581
Technology Center 2400

Mailed: November 12, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on November 9, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S ANSWER, STATUS OF CLAIMS

A review of the file finds that the status of the claims as provided in the Examiner's Answer mailed July 30, 2009 under the heading "Status of Claims" is unclear and/or is not consistent with the status of claims of record in accordance with 37 CFR 41.37(c)(1)(iii). The status of the claims as provided in both the Examiner's Answer and the Appeal Brief must be consistent with the last entered amendment. Each claim on appeal must be identified. *See also Manual of Patent Examining Procedure (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007)* for details.

A review of the last entered amendment finds that claims 3, 8, 15, 20, and 25-52 are canceled; whereas the examiner has not indicated the status of these claims. Correction of the status of all claims is required.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed July 30, 2009;
- 2) to generate a new Examiner's Answer setting forth the correct status of claims and to correct other sections of the Answer as may be required; and
- 3) and for such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

dal

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